

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA

CASE NO.: 3:11-po-00144-MRM

Plaintiff,

US MAGISTRATE JUDGE

Vs.

EDDIE S. JONES

MOTION TO SUPPRESS

Defendant.

BRANCH I

Now comes the Defendant, EDDIE S. JONES, by and through Counsel, and hereby respectfully requests this Honorable Court for an order suppressing the arrest and observations of the officer for the reasons that the officer lacked reasonable suspicion upon which to stop and detain the Defendant for driving under the influence, the officer did not perform the field sobriety test in substantial compliance with the procedure set forth in the National Highway Traffic Safety Administration Manual and overall lacked probable cause to arrest the Defendant and for the further reasons set forth in the attached Memorandum.

BRANCH II

Now comes the Defendant, EDDIE S. JONES, by and through Counsel, and hereby respectfully moves this Honorable Court for an order suppressing any statements which the Defendant may have made pursuant to the above-mentioned illegal arrest for the reasons set forth in the attached Memorandum.

Further, any statements made prior to being Mirandized should be suppressed.

A memorandum in support is attached hereto.

An oral hearing is respectfully requested.

Respectfully submitted,

/S/ STEVEN T. PIERSON

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Centerville, Ohio 45459
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Attorney for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the foregoing was forwarded to the Prosecuting Attorney via electronic filing on this 14th day of November, 2011.

/S/ STEVEN T. PIERSON

Steven T. Pierson #0002659

MEMORANDUM IN SUPPORT

MAY IT PLEASE THE COURT:

BRANCH I

On July 26, 2011, at approximately 9:16 p.m., the Defendant herein was stopped for an alleged traffic violation. It is the position of the Defendant that the officer had no reason upon which to stop, detain, and arrest the Defendant. Further, no evidence existed which would justify his arrest for driving under the influence of alcohol and/or a drug of abuse. See, Akron v. Sharpe, 26 Ohio Misc.2d 1; State v. Finch, 24 Ohio App.3d 38; and State v. Frye, 21 Ohio App.3d 133. Additionally, the officer lacked probable cause to arrest the Defendant for driving under the influence for the reason that the officer did not perform the field sobriety test in substantial compliance with the procedure set forth in the National Highway Traffic Safety Administration Manual. See State v. Homan, 89 Ohio St. 3d 421 (2000). Therefore, the Defendant respectfully submits that the observations of the officer and the evidence be suppressed.

BRANCH II

Due to his illegal arrest, Defendant may have made some incriminating statements. Any statements made as a result of a faulty arrest must be suppressed. See: Brown v. Illinois, 45 L.Ed. 2d 416; Taylor v. Alabama, 73 L.Ed. 2d 314; and State v. Luck, 15 Ohio St. 3d 150.

Further, the Defendant was not given Miranda warnings prior to being detained and asked questions and, thus, any statements made prior to being Mirandized should be suppressed.

Further, any statements made prior to being Mirandized should be suppressed.

Respectfully Submitted,

/S/ STEVEN T. PIERSON

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